IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.454 OF 1993

Narhar Pandurang Bapat ....Petitioner

V/s.

The Trustees of the Port of Bombay and another ....Respondents

Mr.Narhar Bapat - Petitioner in person.

Mr.Umesh Shetty for the Respondents.

CORAM : A.P. SHAH AND S.J. VAZIFDAR, JJ.
DATED : 4TH FEBRUARY, 2005.

P.C. :

. The Petitioner was in service of the Respondent - Bombay Port Trust as a Railway Manager. Pursuant to the case registered by C.B.I. in January, 1984 against the Petitioner for an allegation of demanding and accepting gratification from the Coal Merchants, the Petitioner was placed under suspension. C.B.I. having prosecuted against the Petitioner the impugned cases viz. R.C. No.1 of 1984 on the charge of acceptance of illegal gratification of Rs.1,08,000/- from Coal Merchants and R.C. No.25 of 1984 on the charge of being in possession of assets

disproportionate to the known sources of income.

2. The Petitioner who is appearing in person has informed that one of the criminal case is already disposed of and the Petitioner has been acquitted. It appears that pending the criminal proceedings, departmental action was taken against the petitioner and he was found guilty of serious misconduct and ultimately he was dismissed from service with effect from 28.6.1985. The Petitioner challenged the dismissal in Writ Petition No.1783 of 1985 which was dismissed by this Court in limine.

3. The Petitioner aggrieved by the order of dismissal, filed the L.P.A. which was also dismissed by the Division Bench and the S.L.P. preferred against this order was also dismissed. In the meantime, the Petitioner also preferred an Appeal to the Central Government against the order dismissing him from service. The Central Government dismissed the Appeal as time barred.

4. It appears thereafter that the Petitioner also filed a suit in the Bombay City Civil Court being L.C. No.6463 of 1988, once again challenging his dismissal from service. In the said suit, interim

relief was granted in favour of the Petitioner which was ultimately set aside by the Supreme Court. The Supreme Court held that no interim direction to the Respondents for payment of any money to the Petitioner during the pendency of the suit should have been made. The suit was ultimately dismissed for default in 2001.

5. The Petitioner who is appearing in person alleged that he has become penalised and he is unable to sustain himself as he has no income whatsoever. The Petitioner submits that he has applied for compassionate grant under Rule 30-5 (4) of the Bombay Port Trust's Pension Regulations but the B.P.T. has not taken any decision in respect thereof so far. Rule No.30-5 (4) reads as follows :-

> "No death cum retirement gratuity may be granted to an employee dismissed or removed for misconduct, insolvency or inefficiency. Compassionate grant, may however be made in such cases in accordance with the principles of regulation 10(a)."

. This regulation gives discretion to the B.P.T. to grant compensation allowance to their employees who are dismissed.

6. It appears from the record that this

application was rejected. The order of rejection is not on record and it is not clear whether the application was considered by the B.P.T. before the order of rejection was passed. We therefore, grant liberty to the Petitioner to make a fresh application to B.P.T. for grant of compassionate pension in terms of Rule 30-5. If the said application is made by the Petitioner, B.P.T. will consider the same on its own merits and pass appropriate orders in accordance with law within four months from the date of receipt of the application.

7. Petition is accordingly disposed of.